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ELECTION COMMISSION, INDIA

NOTIFICATION

New Delhi, the 24th June 1953

S.R.O. 1340.—In pursuance of the provisions of Sub-Section (1) of Section 90 of the Representation of the People Act, 1951 (XLIII of 1951), the following election petition presented under Section 81 thereof is published for information.

HIGH COURT, PATNA;
The 24th June 1953.

(Sd.) B. PRASAD, *Chairman.*
Election Tribunal, Patna.

To

The Election Commission of India,

New Delhi.

ELECTION PETITION No. 5 OF 1953.

In the matter of
an application under section 80 of the Representation of the People Act, 1951 (Act 43 of 1951),

AND

In the matter of
Election from the Muzaffarpur North West Parliamentary Constituency of the House of People,

AND

In the matter of
Chandreshwar Narain Prasad Sinha, son of Babu Bishwanath Prasad Sinha, deceased, resident of village Bhandari, P.O. Bhandari, P.S. Belsand, District Muzaffarpur—*Petitioner.*

Versus

1. Thakur Jugal Kishore Sinha, son of Sadhusaran Sinha, resident of village and P.O. Dumri, P.S. Majorganj, District Muzaffarpur—*Respondent, 1st Party.*

2. Bajinath Prasad Verma, son of Lal Narain Prasad, Ward No. 9, Muzaffarpur Municipality, P.O. Muzaffarpur, District Muzaffarpur.

3. Bujhawan Sah, son of Tokhan Sah, resident of village Sasoula Khurd, P.O. and P.S. Sheohar, District Muzaffarpur.

4. Mathura Prasad Sinha son of Babu Rambaran Sinha (of village Khairwa Darp), Mokhtear Sitamarhi Court, P.O. Sitamarhi, District Muzaffarpur.

5. Ramanand Sinha, son of Dhapa Sinha, resident of village and P.O. Chhatauni, P.S. Belsand, District Muzaffarpur.

6. Lachhman Mahto, son of Anadn Mahto, Ward No. 1, Sitamarhi Municipality, P.O. and P.S. Sitamarhi, District Muzaffarpur.

7. Chandrika Sinha son of Jamuna Sinha, resident of village Chupra, P.S. Belsand, District Muzaffarpur—Respondents, 2nd Party.

The humble petition on behalf of the above-named petitioner

MOST RESPECTFULLY SHEWETH:—

1. Your petitioner was duly elected to be a member of the House of the People from the Muzaffarpur North West Parliamentary Constituency (hereinafter referred to as the said Constituency) during the last General Elections.

2. The said election of the petitioner was, however, declared to be void by the Election Tribunal appointed for the trial of the petition calling the said election in question and the order of the Tribunal made under the Representation of the People Act, 1951 (Act 43 of 1951) (hereinafter referred to as the said Act) was published in the Gazette of India.

3. Consequent to the casual vacancy in the House of the People occurring on the election being declared void, the Election Commission, by a notification in the Gazette of India in its issue dated the 8th January, 1953, called upon the said Constituency to elect a person for the purpose of filling the vacancy so caused before the 21st March, 1953 and appointed the 22nd January, 1953 as the last date for making nominations and the 8th of March, 1953 on which a poll, if necessary, was to be taken.

4. Your petitioner as well as the Respondents were nominated as candidates for election to fill the seat in the said constituency, but subsequently, the nomination of Respondent No. 3 was rejected at the time of the scrutiny by the Returning Officer and Respondents No. 2, 4, 5 and 7 withdrew their candidatures. As such, the list of valid nominations, prepared and published pursuant to the provisions of section 38 of the said Act, contained the name of your petitioner and the names of Respondents 1 and 6.

5. The Poll was held on the date notified; and in due course the votes were counted, and ultimately, as a result of the counting, your petitioner lost the election and Respondent No. 1 was declared to have secured the maximum number of votes among the candidates at the election. The declaration bearing the name of Respondent No. 1 as the elected candidate was published in an extraordinary issue of the official Gazette dated the 19th March 1953.

6. Your petitioner further states that general coercion or general intimidation has been exercised or resorted to by the members of the Rajput community, and by the Respondent No. 1 and his adherents including his agent on the members of the Rajput community, group or section to vote for the said Respondent and on members of the backward and/or scheduled and/or depressed castes and also on the Muslims not to vote for the petitioner and to vote for the said respondent, or at any rate, to refrain from voting at the election. Full particulars thereof are set out in the Annexure hereunto annexed and marked with the letter "A".

7. And your petitioner also says that Respondent No. 1 was, by himself and by his agents and by aiding, abetting and counselling, guilty of the corrupt practice of procuring motor trucks for the conveyance of the electors to and from polling stations and places fixed for the poll. Full particulars of such corrupt practice are set out in the Annexure hereunto annexed and marked with the letter "B".

8. And your petitioner further says that the said Respondent No. 1 was, by himself and by his agent, guilty of the corrupt practice of incurring expenditures by way of payment of gratifications to electors for voting for the said Respondent and/or for employing persons to induce or attempt to induce the electors to vote for the said respondent on payment of gratification or refrain from voting at the election. Full particulars of such corrupt practices are set out in the Annexure hereunto annexed and marked with the letter "C".

9. And your petitioner says that the said Respondent No. 1 was by himself guilty of another corrupt practice in that the said Respondent knowingly made the declaration respecting the election expenses at the said election falsely, the particulars in respect whereof are set out in the Annexure hereunto annexed and marked with the letter "D".

10. And your petitioner further states and submits that the election of Respondent No. 1 is void because the result of the election has been materially affected by the non-compliance with

(i) the provisions of Article 326 of the Constitution read with the Representation of the People Act 1950 (Act 43 of 1950) and the rules relating to the election,

- (ii) the provisions of section 62 of the said Act by way of disentitling the electors from voting at the election in the said constituency,
- (iii) the directions of the Election Commission given under rule 16, read with section 56 at Booth No. 149 fixed at Basatpur M.E. School and at Booth No. 135 fixed at Khairwa L.P. School as also at Booth No. 153 fixed at Pakri U.P. School,
- (iv) the provisions of Rule 17 of the Rules framed under the said Act by reason of the fixing of booths at wide and inconspicuous distances at various polling stations, such as at Pachnaur L.P. School, P.S. Belsand and at Asogi Purushottam, Bhakurahar, Nandawara, Jamuan, Parsauni, P.S. Bairagnia, and thus rendering it impossible for the Presiding Officer acting under human limitations, to regulate and supervise the polling,
- (v) the provisions of Rule 46 of the Rules framed under the said Act resulting in the irregularities mentioned and fully specified in the petitions filed during the counting of votes,
- (vi) the provisions of Rule 24(6) of the Rules framed under the Act of 1950 in so far as the Electoral Roll supplied to your petitioner on one occasion was incomplete; and on his next attempt to secure the same, the finally published Electoral Roll was not supplied to your petitioner: rather instead thereof, the old roll was issued to the petitioner although he paid for and was supposed to have been supplied with copies of the finally published electoral roll in face for the time being for the said Constituency. As a result thereof, the petitioner had to work under a great handicap and to his detriment during the canvassing at the said election. Material facts relating to the grounds herein-before set out are given in an Annexure hereunto annexed and marked with the letter "E".

11. The petitioner has herewith annexed a Government Treasury receipt, marked with the letter "F", evidencing the deposit of Rs. 1,000 in favour of the Secretary to the Election Commission as security for the costs of the petition.

Wherefore, your petitioner prays

- (i) for a declaration that the said election is wholly void, or
- (ii) for a declaration that the election of the returned candidate, namely of Respondent No. 1, is void,
- (iii) for costs of, and incidental to, this petition.

Verification

I, Shri Chandreshwar Narain Prasad Sinha, verify this the 29th day of April, 1953 at Muzaffarpur that the statement made in paragraphs 1 to 5, 11 and in part of paragraph 10 in sub-paragraphs (iv) to (vi) are matters of my own knowledge and that those made in paragraphs 6 to 9 and in part of paragraph 10 in sub-paragraphs (i) to (iii) thereof are matters of belief based on information received and that the entire contents of this petition in the paragraphs referred to are, as stated, true.

Verified at Muzaffarpur.

(Sd.) Chandreshwar Narain Prasad Sinha by my own pen 29th April 1953.

Petition of Chandreshwar Narain Prasad Sinha by my own pen.

29th April 1953.

Annexure "A"

Particulars referred to:—

The following are the particulars of the grounds mentioned in paragraph 6 of the petition:—

1. On the 26th of February, 1953 at villages Chupra, Pachra and Aura P.S. Belsand, on the 27th February 1953 at village Sonaul P. S. Sheohar and on the 6th of March 1953 at villages Rampurganguli and Riga within Sitamarhi P. S., the said Thakur Jugal Kishore Sinha exhorted the members of the Rajput community to rise to the occasion and to throw their full weight for the success of a candidate of their community by preaching and inculcating upon them feelings of casteism and a general feeling of hatred and contempt towards members of other castes and communities, especially against the petitioner, and thereby enlisted a number of influential gentry of his caste including Babus Jamuna Singh and Chandrika Singh of village Chupra, Mosafir Singh and Pradip Singh respectively of villages

Pachra and Aura and Asarfi Singh of village Sonaul who openly and aggressively began to expostulate and/or threaten or intimidate the voters of the villages and canvassed the votes of the members of the Rajput Community on rank communal basis, and by themselves, as also with the assistance and support of such Rajput electors, threatened the members of other communities in their respective localities with dire consequences if they would not vote for the said Thakur Jugal Kishore Sinha and chose to vote for the Congress candidate, viz. the petitioner.

2. On similar lines and in the manner indicated above, Shri Rambaran Singh of village Madhesara P. S. Sonbarsa, an agent and employee of Thakur Jugal Kishore Sinha, canvassed support for the said candidate throughout the Constituency and preached and spread rank communal feelings in favour of the said candidate and hatred and contempt towards members of other communities especially against the petitioner on the 16th February 1953 at Villages Lalgah Kararia, Aura and Amanwan, on the 17th February 1953 at Pachra, Chhatauni, Tuniahi, and on the 18th February, 1953 at Chupra, Kundal, Marar, Dumra and Nunaura.

3. On the 2nd of March, 1953, the said Shri Thakur Jugal Kishore Sinha accompanied by Mewa Lal Singh, Rambaran Singh and Kishnadeo Jha threatened the electors of villages Narayanpore, Miradpore, Bhawa Prasad and Bishwanathpur within Sitamarhi Police Station at their respective villages with dire consequences if they failed to vote for the said Thakur Jugal Kishore Sinha and chose to vote for the Congress candidate and on the next day, the said Shri Thakur Jugal Kishore Sinha along with the same set of persons held out similar threats to the electors of villages Mohsaul Kolli, Rupauli, Bhalhabhalhi at their respective villages.

Verification

I, Shree Chandreshwar Narain Prasad Sinha, do hereby verify this the 29th day of April, 1953 at Muzaffarpur that the contents of paragraphs 1 to 3 of the list of particulars set out in Annexure "A" above are matters of information which I believe to be true.

Verified these particulars at Muzaffarpore.

(Sd.) Chandreshwar Narain Prasad Sinha by my own pen.

29th April 1953.

Annexure "B"

Particulars referred to—

1. On the day of polling viz. the 8th of March 1953, at Polling station No. 7 Shri Devaki Prasad Jayaswal of Baignia, at polling station 113 Shri Kishnadeo Jha of village Riga and at polling station No. 84 Shri Rambaran Singh of Madhesara each respectively with the connivance of the said Shri Thakur Jugal Kishore Sinha, procured Motor Trucks for the conveyance of the electors from and to their respective booths at the said polling stations.

Verification

I, Shree Chandreshwar Narain Prasad Sinha, do hereby verify this the 29th day of April, 1953, at Muzaffarpur that the statement made in paragraph 1 set forth above in the list of particulars annexed and marked with the letter "B" is a matter within my knowledge and is true.

Verified these particulars at Muzaffarpur.

(Sd.) Chandreshwar Narain Prasad Sinha by my own pen.

29th April 1953

Annexure "C"

Particulars referred to—

1. On the 8th of March, 1953, Shri Asharfi Singh of village Sonaul at Nayagaon Polling station, with the connivance of Shri Thakur Jugal Kishore Sinha, paid money to electors to vote for the said candidate.

2. On the 26th January, 1953, the said Shri Thakur Jugal Kishore Sinha employed at Sitamarhi, Shri Rambaran Singh of village Madhesara and Shri Mewa Lal Singh of village Sirsian to go around the Constituency and induce the electors to

vote for the said candidate even on payment of gratification who accordingly made attempts all around the constituency to tempt and procure and procured votes for the said candidate on payment of such gratifications.

Verification

I, Shree Chandreshwar Narayan Prasad Sinha, do hereby verify this the 29th day of April, 1953 at Muzaffarpur that the statements made in paragraphs 1 and 2 set forth above in the list of particulars annexed and marked with the letter "C" are matters of information which I believe to be true.

Verified these particulars at Muzaffarpur.

(Sd.) Chandreshwar Narain Prasad Sinha by my own pen.

29th April 1953.

Annexure "D"

Particulars referred to—

1. On the 2nd of March, 1953, the said Shri Thakur Jugal Kishore Sinha collected at villages Lagma and Kharsan rice and cash subscriptions for fighting the election as a Socialist candidate but has not entered the receipt of such subscriptions in his election expenses.

2. On the 22nd and 23rd of February 1953, Ramanand Sinha, Respondent No. 5 and an adherent of the said Shri Thakur Jugal Kishore Sinha collected at villages Chhatauni, Pachra and Narwara P. S. Belsand rice and cash amount from the residents of these villages as subscription for fighting the election but the receipt of such subscriptions has not been mentioned in the election expenses.

Verification

I, Shree Chandreshwar Narayan Prasad Sinha, do hereby verify this the 29th day of April, 1953 at Muzaffarpore that the statements made in paragraphs 1 and 2 set forth above in the list of particulars annexed and marked with the letter "D" are matters of information which I believe to be true.

Verified these particulars at Muzaffarpur.

(Sd.) Chandeshwar Narain Prasad Sinha by my own pen.

29th April 1953.

Annexure "E"

Material facts relating to the grounds set out in paragraph 10 of the petition (hereinafter referred to as the said paragraph).

(a) With reference to sub-paragraph (i) of the said paragraph, the petitioner states that the Electoral Roll of the said Constituency first prepared under the Representation of the People Act 1950 continued in force only until the 30th day of September 1952 and the finally Electoral Roll prepared during the year 1952 was published on the 31st January 1953 with the result that at the material dates of the election two different Electoral Rolls were in existence in the said Constituency and as such the election was held and conducted on the basis of varying electoral rolls.

(b) With reference to sub-paragraph (ii) of the said paragraph, the petitioner states that—

(aa) the persons entered in the electoral roll of villages Murglachak, P. S. Sitamarhi, Asogichapra (Barwajhakar/Barwa Loharwa) and Akhtabazar, hamlets of village Akhta, P. S. Bairagnia, misdescribed in the electoral roll as village Asogichapra, P. S. Bairagnia, and village Gamharria partly situate within Majorganj P. S. and of some other vilges could not vote at the election due to failure of the authorities concerned to assign to such electors any polling station,

(bb) the persons entered in the electoral roll of villages Sonar assigned to polling station No. 1343 could not exercise their voting rights on account of the failure of the Returning Officer to supply the Presiding Officer of the said polling station with the list of the voters whose names were entered in the Electoral Roll. Having been supplied only with the corrigenda in respect of the Electoral Rolls of the said villages, the Presiding Officer did not grant any ballot paper to a large number of electors who went to the Polling station to cast their votes, but whose names were not found in the said corrigenda,

- (cc) similarly, the electors of villages Khairwa (240) and Patahi (237) assigned to polling Booth No. 135 and of villages Pakri (273), Basatpur Pakri (278) assigned between booths No. 149 and 153 and of village Gamharin partly situate within Bairagnia P. S. assigned to Polling Station No. 6 could not vote at the election on account of the failure of the Returning Officer to supply the Electoral Roll of the said villages to the Presiding officer at the appropriate polling booths,
 - (dd) on account of the misprint in the name of the Post Office of village Akhta on various pages of the Electoral Roll in respect of the various hamlets of the said village, the electors of the village residing in its various hamlets were not allowed by the Presiding Officer to cast their votes on account of the discrepancy noticed by him in the description of the Post Office given by such voters and the one given in the electoral roll,
 - (ee) the electors assigned to the booths mentioned in Sub-paragraph (iii) of Paragraph 10 could not vote on account of the irregularities committed and referred to in the said subparagraph,
 - (ff) the electors of villages Bel, Gunja, Birti, Sekhauna, Dumarwana, Sheonagar, Bairagnia bazar and Akhta and its hamlets within Bairagnia P. S. could not exercise their votes on account of confusion prevailing at polling stations No. 4 to 6 where the list of electors assigned to the respective polling stations was not hung nor had any care been taken to assign polling booths with due regard to the situation of the places of abode of the respective voters,
 - (gg) generally, the electors of the said Constituency were not given adequate notice of the polling proposal because of the publication thereof with inordinate delay on the 5th March 1953, only three days before the date on which the polling was to be held.
- (c) With reference to subparagraph (iii) of the said paragraph, the petitioner states that contrary to the directions of the Commission and the consequent announcement, the poll at the booths, referred to in the said paragraph was actually held respectively at Basatpur U.P. School, at Khairwa (240) and at Pakri Sanskrit Patshalla and without obtaining any sanction or approval of the Election Commission for the change or any notification, announcement at publicity in respect thereof.

(Sd.) Chandreshwar Narain Prasad Sinha,

(Petitioner) by my own pen,

Village Bhandari, P.O. Muzaffarpur.

The 29th April 1953.

[No. 13.]

P. R. KRISHNAMURTHY,

for Chief Election Commissioner.